

STATE OF TENNESSEE

Office of the Attorney General



2004 JUN -7 PM 1:57

T.R.A. DOCKET ROOM

**PAUL G. SUMMERS**  
ATTORNEY GENERAL AND REPORTER

**ANDY D. BENNETT**  
CHIEF DEPUTY ATTORNEY GENERAL

**LUCY HONEY HAYNES**  
ASSOCIATE CHIEF DEPUTY  
ATTORNEY GENERAL

MAILING ADDRESS  
P.O. BOX 20207  
NASHVILLE TN 37202

June 07, 2004

**MICHAEL E. MOORE**  
SOLICITOR GENERAL

CORDELL HULL AND JOHN SEVIER  
STATE OFFICE BUILDINGS

TELEPHONE 615-741-3491  
FACSIMILE 615-741-2009

Honorable Deborah Taylor Tate  
Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

**RE: UNITED CITIES GAS COMPANY, a Division of ATMOS  
ENERGY CORPORATION, INCENTIVE PLAN ACCOUNT  
(IPA) AUDIT  
Docket No.: 01-00704**

Dear Chairman Tate:

Enclosed is an original and thirteen copies of a Motion To Set An Evidentiary Hearing On The Merits by the Consumer Advocate and Protection Division of the Office of the Attorney General. Kindly file the attached in this docket. By copy of this letter, we are serving all parties of record. If you have any questions, please feel free to contact me at (615) 741-8700. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Russell T. Perkins".

Russell T. Perkins  
Deputy Attorney General

Enclosures

cc: All Parties of Record

75777

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
AT NASHVILLE, TENNESSEE**

|   |   |                   |
|---|---|-------------------|
| <b>IN RE:</b>                                   | ) |                   |
|   | ) |                   |
| <b>UNITED CITIES GAS COMPANY, a Division of</b> | ) | <b>DOCKET NO.</b> |
| <b>ATMOS ENERGY CORPORATION,</b>                | ) | <b>01-00704</b>   |
| <b>INCENTIVE PLAN ACCOUNT (IPA) AUDIT</b>       | ) |                   |

---

**THE CONSUMER ADVOCATE'S MOTION  
TO SET AN EVIDENTIARY HEARING ON THE MERITS**

---

The Consumer Advocate Division hereby moves this Agency to issue a notice under Rule 1220-1-2-.14(2), Rules of Tennessee Regulatory Authority, setting this case for an evidentiary hearing on the merits and to set a procedural schedule requiring pre-filed testimony and expedited discovery.<sup>1</sup> In setting this hearing on the merits, the Hearing Officer may either deny or reserve ruling on the summary judgment motion of the Staff and Atmos seeking judgment on a proposed "settlement" which would have the effect of involuntarily dismissing the Consumer Advocate's complaints in this consolidated case.

On June 8, 2004, the Consumer Advocate will participate, under protest, in an evidentiary hearing to decide the proponents' joint motion for approval of the settlement, which the CAD submits is, in substance, a motion for summary judgment. The nature of the motion and the

---

<sup>1</sup>The uncertainty and confusion about the nature of the June 8, 2004, hearing, expressed as recently as the status conference on June 2, 2004, clearly indicates that there has not been ten days notice of a hearing on the merits under this Rule. The June 8 hearing, therefore, cannot possibly be an evidentiary hearing on the merits — contrary to the assertions of the Staff and Atmos in recent filings.

limited nature of the proceedings leading up to the hearing, moreover, strongly suggest that the June 8, 2004 hearing should be non-evidentiary.

Respectfully submitted,



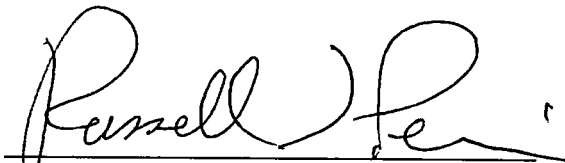
RUSSELL T. PERKINS  
B.P.R. No. 10282  
Deputy Attorney General  
Office of the Attorney General  
Consumer Advocate and Protection Division  
(615) 741-1376

**CERTIFICATE OF SERVICE**

I hereby certify that on June 17<sup>th</sup>, 2004, a true and exact copy of the foregoing document has been mailed, first class U S. postage prepaid, and faxed to the following:

Joe A. Conner  
Baker, Donelson, Bearman & Caldwell, P C.  
1800 Republic Centre  
633 Chestnut Street  
Chattanooga, Tennessee 37450-1800

Randal Gilliam  
Office of Legal Counsel  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243-0505



Russell T. Perkins

75968